



2026:CGHC:20731

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 614 of 2019**

The New India Assurance Company Limited, Through Its Divisional Manger, Divisional Office Jail Road, Raipur, Tahsil And District Raipur, Chhattisgarh.

... Appellant**versus**

1 - Ganga Prasad, S/o. Sumeshar Koushal, Aged About 27 Years, R/o. Village Otgan, Police Station Simga, District Balouda Bazar (Bhatapara), Chhattisgarh. Presently R/o. Village Sasaholi, Police Station Nevra, District Raipur, Chhattisgarh.

2 - Manisha Bai, W/o. Ganga Prasad Kuoshal, Aged About 23 Years, R/o. Village Otgan, Police Station Simga, District Balouda Bazar (Bhatapara) Chhattisgarh. Presently R/o. Village Sasaholi, Police Station Nevra, District Raipur, Chhattisgarh.

3 - Nirmala Bai, W/o. Late Vinod Kumar Rajak, R/o. Shanker Nagar, Simga, Police Station And Post Office Simga, District Balouda Bazar (Bhatapara) Chhattisgarh.

4 - Shivdhari, S/o. Punaram Devangan, R/o. Shitlapara, Simga, Post Office And Police Station Simga, District Balouda Bazar (Bhatapara) Chhattisgarh (Owner)

... Respondents

For Appellant : Mr. Dashrath Gupta, Advocate
For Respondents No. 1 & 2 : Rakesh Kumar Thakur, Advocate

(Single Bench)

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

04.05.2026

1. The appellant/insurance company has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 calling in question the legality, validity and correctness of the impugned award dated 15.10.2018 passed by learned IInd Additional Motor Accident Claims Tribunal to the Ist Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.148/2013 by which the claim application of the claimants is allowed and liability has been fastened upon the insurance company to pay the amount of compensation.
2. Mr. Dashrath Gupta, learned counsel for the insurance company, would submit that the offending vehicle did not have valid permit and fitness certificate on the date of accident, therefore, the insurance company is not liable to pay the amount of compensation.

3. Mr. Rakesh Kumar Thakur, learned counsel for the claimants/respondents No.1 & 2, would submit that though the plea has been taken but Mahesh Kumar, witness of the insurance company, has been examined and he did not prove the same, therefore, the insurance company has rightly been fastened liability to pay the amount of compensation.
4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and gone through the records meticulously.
5. Though the appellant/insurance company has taken a plea that the vehicle did not have valid permit and fitness certificate on the date of accident, but it has not been proved. Mahesh Kumar, Administrative Officer, has been examined on behalf of the insurance company and he has only stated that despite request has been made from the owner of the vehicle, the fitness certificate & permit has not been produced; therefore, there is breach of policy and, as such, insurance company is not liable.
6. The appellant/insurance company has filed an application under Order 41 Rule 27 of C.P.C. for taking additional document/evidence on record to demonstrate that the vehicle did not have fitness certificate at the time of accident on 24.01.2013. However, on 15.10.2018, the award has been passed and thereafter, the document

which was issued on 19.01.2019 has been produced before this Court.

7. A careful perusal of the written statement filed by the insurance company would show that though plea has taken that the offending vehicle did not have fitness certificate, but no evidence has been led in this regard. Furthermore, filing of an application under Order 41 Rule 27 of C.P.C. is not vested right of the appellant herein/ insurance company, as this Court is able to decide on the basis of material available on record, as per the law laid down in **Gobind Singh and Other v. Union of India and others**¹ . Furthermore, no reason has been assigned as to why the document could not be produced before the Claims Tribunal when the inquiry on claim application is going on; therefore, the application under Order 41 Rule 27 of C.P.C. deserves to be and hereby rejected.
8. In view of the above, I do not find any merit in the appeal filed by the insurance company and accordingly, the same deserves to be and hereby dismissed.
9. So far as the cross-objection filed by the claimants for enhancing the amount of compensation is concerned, it is also dismissed, as the boy, aged about 1 ½ years, has died in the accident for which an amount of Rs. 5,00,000/- (Five Lakhs) has been awarded as

1 2026 SCC OnLine SC 339

compensation, which is just and proper. As such, no interference is warranted with the impugned award passed by the learned Claims Tribunal.

10. Accordingly, the appeal of the insurance company and the cross-objection of the claimants are dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge

Ashok